

MEMORANDUM

December 5, 2006

TO: THE LOS ANGELES COUNTY CLAIMS BOARD

FROM: CASEY YOURN
Deputy County Counsel
Public Works Division

RE: Mureau Estates, LLC v. County of Los Angeles
Los Angeles Superior Court Case No. BS 100 957

DATE OF
INCIDENT: June 2002

AUTHORITY
REQUESTED: Partial Refund of \$519,378 Development Fee


COUNTY
DEPARTMENT: DEPARTMENT OF PUBLIC WORKS

CLAIMS BOARD ACTION:

☐ Approve

☐ Disapprove

☒ Recommend to Board of
Supervisors for Approval


_____, Chief Administrative Office
ROCKY A. ARMFIELD


_____, County Counsel
JOHN F. KRATTLI


_____, Auditor-Controller
MARIA M. OMS

on December 18, 2006

SUMMARY

This is a recommendation to settle a lawsuit brought by Mureau Estates, LLC ("Mureau"), for a refund of a \$519,378 fee ("Development Fee") collected for the realignment of a portion of Mureau Road, a County highway, adjacent to Subdivision Tract 46882 ("Tract").

The Development Fee was imposed as a condition of approval of the Tract. The proposed settlement is contingent upon the approval of the deletion of the condition by the Regional Planning Commission or Regional Planning Hearing Officer, and by the Board of Supervisors if the approval of the deletion is appealed.

Under the proposed settlement, the County will be reimbursed for the attorneys fees it has and will expend in this matter in an amount not to exceed \$100,000, and for the cost of processing the application to delete the condition. The balance of the Development Fee will be paid to Mureau in three installments over three years. Should a third party file a claim for any portion of the Development Fee during these three years, any disbursements from the settlement fund will be suspended until the claim is resolved. As part of the settlement, Mureau will indemnify and defend the County against such claims. During the three-year pay out period, the County will have access to the undisbursed Development Fee as a source of funds for the County should Mureau fail to defend and indemnify the County.

LEGAL PRINCIPLES

Pursuant to Government Code section 66472.1 and County Code section 21.52.030, a party may seek to modify a final subdivision map's conditions of approval if there are changes in circumstances which make any of the conditions no longer appropriate or necessary.

SUMMARY OF FACTS

Mureau was the developer and owner of the Tract which is located in the unincorporated area of the County. In May 1990, Mureau filed an application with the County's Department of Regional Planning for approval of a tentative subdivision map for the Tract, located adjacent to Mureau Road, an existing County highway. In November 1990, Regional Planning approved the tentative subdivision map. Pursuant to the Subdivision Map Act, as a condition of approval of the tentative subdivision map for the Tract, Mureau paid the Development Fee in lieu of realigning Mureau Road in the vicinity of the Tract. In October 2000, Mureau deposited the Development Fee with the County. In June 2002, while it still owned all the Tract parcels, Mureau requested a refund of the Development Fee because the County had not built the realignment to Mureau

Road. That request was denied. On December 21, 2005, Mureau filed the subject lawsuit, alleging unjust enrichment and seeking a petition for writ of mandate for refund of the fees.

DAMAGES

In its lawsuit, Mureau seeks a refund of the Development Fee it paid the County. In addition, it is seeking interest on the monies deposited with the County.

STATUS OF CASE

The trial of this case was originally set for January 29, 2007. The trial date has been continued pending approval of the proposed settlement.

EVALUATION

County Code section 21.52.030 provides that the condition requiring the Development Fee for the Mureau Road realignment may be removed if changed circumstances make the condition no longer appropriate or necessary. Public Works has confirmed that due to changed circumstances, the Mureau Road realignment was not appropriate or necessary as of June 2002, when Mureau requested a refund of the Development Fee.

CONCLUSION

It is therefore recommended that the best interests of the County would be served by settling this lawsuit in accordance with the proposed settlement agreement. The Department of Public Works concurs with this recommendation.

APPROVED:



KAREN A. LICHTENBERG

Assistant County Counsel
Public Works Division